

ORIGINAL

JENKINS & JENSEN LLP
Bruce C. Jenkins - 5972
Counsel for Plaintiff
352 E Riverside Dr, Ste C4
St. George, UT 84790
Telephone: (435) 674-9718
Facsimile: (435) 674-9006

FILED IN THE
UNITED STATES
BANKRUPTCY COURT
DISTRICT OF UTAH
SEP 5 12 30 PM '03
MAIL

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, SOUTHERN DIVISION

In Re:

Richard J. Bartlett
Michal Ann Bartlett

Debtors.

BANKRUPTCY NO. 03-32495

**OBJECTION TO
CONFIRMATION OF CHAPTER
13 PLAN**

Century Investments, Inc., doing business as Century Mortgage, by and through its undersigned counsel, hereby objects to confirmation of the Debtor's Chapter 13 Plan on the following grounds:

1. On or about October 29, 2001, Petitioner Richard J. Bartlett, Sr. ("Bartlett") sold two shares of water in the Harmony Farms Water Users Association, Certificates No. 182 and 183, to Mike Caplin ("Caplin") for Thirty Thousand Dollars (\$30,000.00). A true and correct copy of the Bill of Sale is attached hereto as Exhibit A. A true and correct copy of Certificates No. 182 and 183 are attached hereto as Exhibit B. A true and correct copy of the Thirty Thousand Dollars (\$30,000.00) check is attached hereto as Exhibit C.

2. On information and belief, Bartlett committed fraud in the conveyance of both water shares to Caplin.

3. Prior to conveying Certificate No. 182 to Caplin, Bartlett had already transferred such Certificate to the owners of the New Harmony Texaco Station located just off the New Harmony I-15



exit in Washington County, Utah.

4. On information and belief, prior to conveying Certificate No. 182 to Caplin, Bartlett knew that he had previously sold such Certificate and had no right to resell the same to Caplin.

5. Concerning Certificate No. 183, Bartlett sold it to Caplin knowing that Caplin intended to use the water on the project commonly known as "Kate's Corner," located outside the Harmony Farm Water Users Association service area.

6. On information and belief, Bartlett sold Certificate No. 183 to Caplin knowing that the Harmony Farms Water Users Association would not recognize a transfer of the water share certificate outside its service district area.

7. Caplin contacted Bartlett several times concerning the problems and despite Bartlett's promises to cure the problem or otherwise return the money, Bartlett failed to do so.

8. Caplin had used Certificates No. 182 and 183 as collateral for a loan from Century Mortgage. Enclosed as Exhibit D is a true and correct copy of a letter from Century Mortgage to Bartlett dated June 11, 2002, concerning the water share issue.

9. On July 20, 2003, Caplin assigned his claims against Bartlett and his interests in Certificates No. 182 and 183 to Century Investments, Inc. dba Century Mortgage ("Century"). Attached hereto as Exhibit E is a true and correct copy of the Full Assignment of Water Shares & Claims.

10. Unaware of any bankruptcy filing by Bartlett, Century caused a demand letter to be served upon Bartlett via certified mail, return receipt requested, on July 31, 2003. A true and correct copy of said letter is attached hereto as Exhibit F.

11. After issuing the July 31, 2003 letter, Century became aware that Bartlett had filed for Chapter 13 Bankruptcy protection.¹ For reasons unknown to Claimant, neither Caplin nor Claimant were listed as creditors in the Chapter 13 Bankruptcy. Attached hereto as Exhibit G is a true and correct copy of the list of creditors downloaded and printed from the Utah Bankruptcy Court

¹Counsel for Plaintiff is also counsel for the Stone Cliff Owners Association, St. George, Utah ("Stone Cliff"). As counsel for Stone Cliff, the undersigned was sent a Chapter 13 Bankruptcy Notice.

website.

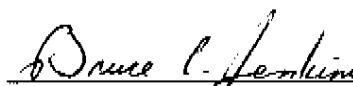
12. Obviously, missing from the list of creditors are Mike Caplin and Century Investments, Inc., dba Century Mortgage.

13. Based upon the foregoing, Petitioner's Chapter 13 Plan should not be approved.

14. Claimant has concurrently herewith filed a Proof of Claim and has standing to file this Objection to Confirmation of Chapter 13 Plan.

DATED this 1st day of September, 2003.

JENKINS & JENSEN, LLP



Bruce C. Jenkins
Counsel for Claimant Century Investments,
Inc., dba Century Mortgage

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of August, 2003, I caused the foregoing Objection to Confirmation of Chapter 13 Plan to be served upon parties in interest by first class mail, addressed as follows:

Richard J. Bartlett
1631 Stone Cliff Drive
St. George, UT 84790

Kevin R. Anderson
32 Exchange Place, Suite 600
Salt Lake City, UT 84111

Paralegal

BILL OF SALE

I, Richard J. Bartlett Sr. — Sold to M.J.C. Corporation (Mike Caplin)
on October 29th, 2001 Two (2) shares of water, Harmony Farms Water Users
Association for the sum of Fifteen Thousand Dollars (\$15,000) each. A total
of Thirty Thousand Dollars (\$30,000.00).

Certificate #182 & #183.


Richard J. Bartlett, Sr.

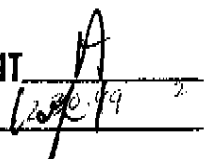
10-29-01
Date

Mike Caplin

Date

EXHIBIT

PAGE



TESTE NUMBER 102

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INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

**HARMONY FARMS
WATER USERS ASSOCIATION**

The Corporation is authorized to issue 3,000 Common Shares. No Par Value.

THE

Richard J. Bartlett, Sr.

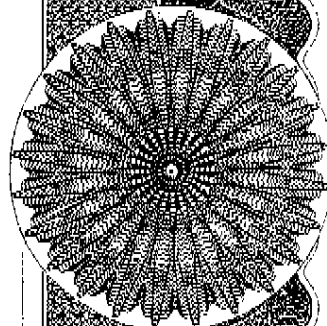
is the owner of

*****ONE*****

*****ONE*****
fully paid and
non-assessable Shares of the above Corporation transferable only on the
books of the Corporation by the holder hereof in person or by duly authorized
Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.

Dated February 9, 1998



1-17-03 ERIC ARDENSON
look original - per
McGowan to St. Louis

4888



REPLACES NO. 3



INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

HARMONY FARMS WATER USERS ASSOCIATION

The Corporation is authorized to issue 3,000 Common Shares - No Par Value

The Undersigned

RICHARD J. BARTLETT Sr.

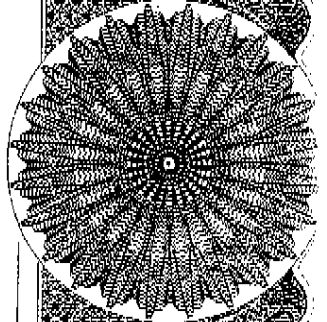
is the owner of

*****ONE*****

non-assessable Shares of the above Corporation transferable only on the books of the Corporation by the holder hereof in person or by duly authorized Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.

Dated FEBRUARY 10, 1998



The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations. Additional abbreviations may also be used though not in the list.

TEN COM	— as tenants in common	UNIF GIFT MIN ACT —	Custodian	(Minor)
TEN ENT	— as tenants by the entireties		under Uniform Gifts to Minors Act	(State)
JT TEN	— as joint tenants with right of survivorship and not as tenants in common			

For value received, the undersigned hereby sells, assigns and transfers unto

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS OF ASSIGNEE

.....Shares
represented by the within Certificate, and hereby irrevocably constitutes and appoints.....
.....Attorney to transfer the said
shares on the books of the within-named Corporation with full power of substitution in the premises.

Dated, 12-29-01

In presence of

Muel G.

Paul Baith

EXHIBIT

B

PAGE 3 of 3

NOTICE: The signature to this assignment must
correspond with the name as written upon the face
of the certificate in every particular without altera-
tion or enlargement, or any change whatever.

10/29/2001

PAY TO THE ORDER OF: Richard J. Bartlett Sr. \$ **30,000.00

Thirty Thousand and 00/100***** DOLLARS

Richard J. Bartlett Sr.



03930 0001 H 825 0008 143 14/25 290CT01
OU CHECK 153100015517 30,000.00

AUTHORIZED SIGNATURE

MEMO MIC Inc. - New Harmony RV Park

"007515" 124302150153100015517"

"0003000000"

EXHIBIT

PAGE

e
1 of 1

CENTURY MORTGAGE

45 North 300 East
St. George, Utah 84770

(435) 673-9245
Fax (435) 674-9020

*Pick geisler
2322S
1400 E 84790*

June 11, 2002

Mr. Richard J. Bartlett

Dear Mr. Bartlett,

We met with you at our office more than ten days ago on the problem with the water shares in Harmony Farms Water Users Association you sold to Mike Caplin using money from Century Mortgage.

You assured us that you would find out "immediately" what the disposition on these shares were, so that Mike could either sell it to a person that has made an offer now, or you if there was any question about its validity you would return the money paid for the shares. Mike needs this money NOW to complete the last part of this project on time. We have heard nothing from you since that day.

We must hear from you within 48 hours or we will be forced to take more drastic action to solve this problem.

Sincerely,

Steve Larkin
Steve Larkin
Century Mortgage

cc: Don Larkin
cc: file

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Richard Bartlett
1631 S Stone Cliff dr-
St George UT 84790*

2. Article Number
(Transfer from service label)

7001 1940 0005 3054 6331

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *[Signature]* ☐ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from Item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

FULL ASSIGNMENT OF WATER SHARES & CLAIMS

(Certificates 182 & 183 Harmony Farms Water Users Association & Claims Against Richard J. Bartlett, Sr.)

SECTION I
Property Involved

FOR VALUE RECEIVED, the undersigned Mike Caplan, Assignor herein, does order, transfer, and assign to Century Investments, Inc. dba Century Mortgage ("Century"), of 45 North 300 East, St. George, Washington County, State of Utah, 84770, Assignee herein, all proceed right title and interest in and to the water shares evidenced by Certificates 182 & 183 in the Harmony Farms Water Users Association and all claims against Richard J Bartlett, Sr.

SECTION II
Power of Attorney

The undersigned Mike Caplan hereby gives to Assignee, full power and authority to take all actions necessary to convey said water rights and claims into the name of Century and to do all things in relation to such water rights and claims which the undersigned Mike Caplan could have done had this Assignment not been executed.

SECTION III
Execution of Collateral Papers

The undersigned Mike Caplan hereby agrees to execute, on demand, any and all documents necessary or convenient in order to transfer to Assignee all of the interest herein as assigned.

SECTION V
Effect of Assignment

This Assignment is irrevocable and shall remain in full force and effect until said water shares and claims are formally transferred into the name of Century.

IN WITNESS WHEREOF, the undersigned Mike Caplan has executed this Assignment on the 30 day of July, 2003.

ASSIGNOR

Mike Caplan
Mike Caplan

Jenkins & Jensen LLP

Attorneys & Counselors at Law

Bruce C. Jenkins, P.C.
Robert M. Jensen, P.C.

352 E. Riverside Dr., Ste. C4
St. George, UT 84790
Tel (435) 674-9718
Fax (435) 674-9006

bcjenkins@jenkins-jensen.com
rmjensen@jenkins-jensen.com

July 31, 2003

Via Certified Mail - 7003 0500 0001 8370 5991
Return Receipt Requested

Richard J. Bartlett, Sr.
1631 South Stone Cliff Drive
St. George, UT 84790

RE: Harmony Farms Water Users Association Shares

Dear Mr. Bartlett:

Please be informed that I have been retained by Century Mortgage to pursue claims to Water Share Certificates No. 182 and 183 in the Harmony Farms Water Users Association. As you will recall, you sold these water rights by Bill of Sale dated October 29, 2001, to M. J. C. Corporation (Mike Caplin) for a total of \$30,000.00. Mike Caplin has now assigned his claims to Century Mortgage.

I am informed by Mr. Caplin that he has contacted you numerous times concerning the problems with water share Certificates No. 182 and 183. In short, with respect to Certificate No. 182, you previously sold it to the owners of the property where the Texaco Station is located and then resold that same share to Mr. Caplin. Such conduct is illegal, fraudulent, and in breach of your contract obligations under the Bill of Sale.

Concerning Certificate No. 183, you knew that Mr. Caplin intended to use that water for his development Kate's Corner. Mr. Caplin engaged Attorney Patricia J. Peterson to work with the Harmony Farms Water Users Association to obtain a hook up relative to Certificate No. 183 on his property at Kate's Corner. In response, LeRoy Kuehl, as President of the Harmony Farms Water Users Association, responded with a letter dated November 24, 2001. A copy of said letter is enclosed herewith. Mr. Kuehl essentially informed Mr. Caplin's then attorney, Ms. Peterson, that share Certificate No. 182 was already appurtenant to the ground where the Harmony Texaco Station is located and that Certificate No. 183 could not be utilized for the Kate's Corner property. Mr. Caplin's project has now failed in part because of his inability to provide water to the property.

Your misrepresentations and fraudulent conduct has damaged my clients. Demand is hereby

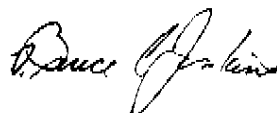
THL
AB

Richard J. Bartlett, Sr.
July 31, 2003
Page 2

made for repayment of the \$30,000.00, plus interest at the rate of ten percent (10%) per annum (from and after October 29, 2001). If payment is not received within ten (10) days from the date of this letter, the offer of settlement will be withdrawn and legal action may be taken to recover lost opportunity costs, breach of contract damages, *i.e.*, \$30,000.00 plus ten percent (10%) interest, incidental and consequential damages, and punitive damages.

Finally, it is my understanding that you are currently trying to market the property to which Certificate No. 183 is appurtenant. Be advised that, in my opinion, such land now has no water rights and unless you resolve this matter and "repurchase" Certificate No. 183 by paying the settlement funds identified above, the waterless ground will be essentially worthless.

Sincerely,
JENKINS & JENSEN, LLP



Bruce C. Jenkins

BCJ/amb
Enclosure

cc: Century Mortgage
Richard Geisler

EXHIBIT F

PAGE 243

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U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

SAINT GEORGE, UT 84790

Postage	\$ 0.37	UNIT ID: 0769
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)	1.75	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 4.42	Clerk: KXJ9K9

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07/31/03

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or PC
City

Richard J. Bartlett, Sr.
1631 South Stone Cliff Drive
St. George, UT 84790

PSR

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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard J. Bartlett, Sr.
1631 South Stone Cliff Drive
St. George, UT 84790

COMPLETE THIS SECTION ON DELIVERY

A. Signature  ☐ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

2. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-0835

EXHIBIT F
PAGE 3 of 3

Academy Collection Service, Inc.
10965 Decatur Road
Philadelphia, PA 19154-3210

FILED
UNITED STATES
BANKRUPTCY COURT
DISTRICT OF COLUMBIA

JUL 21 11 43 AM '01

American Express
P.O. Box 0001
Los Angeles, CA 90096-0001

FILED

American Express
P.O. Box 0001
Los Angeles, CA 90096-0001

Bank of America
P.O. Box 25118
Tampa, FL 33622-5118

Bank of America
P.O. Box 25118
Tampa, FL 33622-5118

Card Member Services
P.O. Box 50882
Henderson, NV 89016-0882

Chris Madsen
488 E. St. George Blvd
Saint George, UT 84770

Citi Cards
P.O. Box 6401
The Lakes, NV 88901-6401

Citi Financial
P.O. Box 9627
Fort Collins, CO 80525

Countrywide Home Loans
P.O. Box 10219
Van Nuys, CA 91410-0219

Discover
P.O. Box 30395
Salt Lake City, UT 84130-0395

Edna Ogden gunn
2051 S. Tonaquint Dr.
Saint George, UT 84770

Family Circle LTD Partnership
2322 S. 1400 E.
Saint George, UT 84790

Farwest Bank
P.O. Box 889
Provo, UT 84606

EXHIBIT 9
10/4

First Security Bank - Wells Fargo
299 S. Main 6th Floor
Salt Lake City, UT 84111

Flagship National Bank
6004 26th Street West
Bradenton, FL 34207

Flagship National Bank
6004 26th Street West
Bradenton, FL 34207

Global Recovery Service, Inc
P.O. Box 221
Saint George, UT 84770-0221

Global Recovery Services, Inc.
P.O. Box 221
Saint George, UT 84770-0221

Global Recovery Services, Inc.
P.O. Box 221
Saint George, UT 84770-0221

Global Recovery Services, Inc.
P.O. Box 221
Saint George, UT 84770-0221

James A. West, P.C.
11111 Harwin
Houston, TX 77072

James A. West, P.C.
11111 Harwin
Houston, TX 77072

L.R. Rope Engineering Inc.
Troon Park #15 B
1240 E. 100 S.
Saint George, UT 84790

LaMar J. Winward
150 N. 200 E. Suite 204
Saint George, UT 84770

M.R.S. Associates, Inc.
3 Executive Campus, Suite 400
Cherry Hill, NJ 08002

Mark H. Gould, P.C.
875 W. Baxter Drive
South Jordan, UT 84095

Mountian America Credit Union
660 S. 200 E.
Salt Lake City, UT 84111

Mountian America Credit Union
660 S. 200 E.
Salt Lake City, UT 84111

Mountian America Credit Union
660 S. 200 E.
Salt Lake City, UT 84111

NCO Financial Systems, Inc.
P.O. Box 41417
Dept. 99
Philadelphia, PA 19101

Ocwen
12650 Ingenuity Drive
Orlando, FL 32826-2703

OSI Collection Service, Inc.
P.O.Box 550720
Jacksonville, FL 32255-0720

Southren Utah Federal Credit Union
333 E. Tabernacle
Saint George, UT 84770

Southren Utah Title Company
P.O. Box 190
Saint George, UT 84770

Stone Cliff Home Owners Association
Saint George, UT 84790

C/o JENKINS & JENSEN
352 E. RIVERSIDE DR.
SUITE # C-4
ST. GEORGE 84790

Sunny Brook Farm Trust
572 N. Ridgeview Dr.
Saint George, UT 84770

Sunny Brook Farm Trust
572 N. Ridgeview Dr.
Saint George, UT 84770

Washington County Tressure
197 E. Tabernacle
Saint George, UT 84790

Wells Fargo Bank Northwest
P.O. Box 6995
Portland, OR 97228-6995

Wells Fargo Credit
P.O. Box 522
Des Moines, IA 50302-9907

Wells Fargo Credit
P.O. Box 522
Des Moines, IA 50302-9907

Wells Fargo Credit
P.O. Box 522
Des Moines, IA 50302-9907

Wells Fargo Credit
P.O. Box 522
Des Moines, IA 50302-9907

Wells Fargo Credit
P.O. Box 522
Des Moines, IA 50302-9907

Zions Bank
P.O. Box 1507
Salt Lake City, UT 84110

Zions Bank
P.O. Box 1507
Salt Lake City, UT 84110